
SENATE BILL No. 356

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-13-12; IC 33-19.

Synopsis: Salary of court officers. Increases the state paid salary of trial court judges, prosecuting attorneys, judges of the court of appeals, and justices of the supreme court. Establishes a court management fee and provides for the collection of the fee in criminal and civil actions. Provides for the deposit of court management fee revenue in the state general fund.

Effective: July 1, 2002.

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January 8, 2002, read first time and referred to Committee on Judiciary.

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Introduced

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE BILL No. 356

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 33-13-12-7.1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7.1. (a) The total
3 annual salary of each full-time judge of a circuit, superior, municipal,
4 county, or probate court is:
5 (1) ninety thousand dollars (\$90,000); **and**
6 (2) **after December 31, 2002, ninety-seven thousand dollars**
7 **(\$97,000);**
8 and any additional salary provided under IC 36-2-5-14 or
9 IC 36-3-6-3(c). The state shall pay all of the total salary except for the
10 additional salary, if any, under IC 36-2-5-14 or IC 36-3-6-3(c). The
11 state shall deposit quarterly the money received from the counties
12 under subsection (c) in the state general fund.
13 (b) Before November 2 of each year, the county auditor of each
14 county shall certify to the division of state court administration the
15 amounts, if any, to be provided by the county during the ensuing
16 calendar year for judges' salaries under IC 36-2-5-14 or IC 36-3-6-3(c).
17 (c) When making each payment under subsection (a), the county

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shall determine for each judge whether the total of:

- (1) the payment made on behalf of that judge;
- (2) previous payments made on behalf of that judge in the same calendar year; and
- (3) the state share of the judge's salary under subsection (a);

exceeds the Social Security wage base established by the federal government for that year. If the total does not exceed the Social Security wage base, the payment on behalf of that judge must also be accompanied by an amount equal to the employer's share of Social Security taxes and Medicare taxes. If the total does exceed the Social Security wage base, the part of the payment on behalf of the judge that is below the Social Security wage base must be accompanied by an amount equal to the employer's share of Social Security taxes and Medicare taxes, and the part of the payment on behalf of the judge that exceeds the Social Security wage base must be accompanied by an amount equal to the employer's share of Medicare taxes. Payments made under this subsection shall be deposited in the state general fund under subsection (a).

(d) For purposes of determining the amount of life insurance premiums to be paid by a judge who participates in a life insurance program that:

- (1) is established by the state;
- (2) applies to a judge who is covered by this section; and
- (3) bases the amount of premiums to be paid by the judge on the amount of the judge's salary;

the judge's salary does not include any amounts paid to the state by a county under subsection (a).

SECTION 2. IC 33-13-12-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9. (a) The total annual salary for each justice of the supreme court of Indiana is:

- (1) one hundred fifteen thousand dollars (\$115,000); **and**
- (2) **after December 31, 2002, one hundred twenty-five thousand dollars (\$125,000).**

(b) The total annual salary for each judge of the court of appeals of Indiana is:

- (1) one hundred ten thousand dollars (\$110,000); **and**
- (2) **after December 31, 2002, one hundred seventeen thousand five hundred dollars (\$117,500).**

(c) The state shall pay the annual salaries prescribed in subsections (a) through (b) from the state general fund.

(d) In addition to said salary, there shall be paid in equal monthly payments on the first day of each month out of any money in the

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1 general fund of the state treasury not otherwise appropriated, the
 2 following annual subsistence allowances to assist in defraying expenses
 3 relating to or resulting from the discharge of the justice's or judge's
 4 official duties, for which no accounting shall be made by such judge:

5 (1) Five thousand five hundred dollars (\$5,500) to the chief
 6 justice of the supreme court.

7 (2) Five thousand five hundred dollars (\$5,500) to the chief judge
 8 of the court of appeals.

9 (3) Three thousand dollars (\$3,000) to each justice of the supreme
 10 court who is not the chief justice.

11 (4) Three thousand dollars (\$3,000) to each judge of the court of
 12 appeals who is not the chief judge.

13 (e) The state shall not furnish automobiles for the use of justices or
 14 judges compensated under this section.

15 SECTION 3. IC 33-19-5-1, AS AMENDED BY P.L.183-2001,
 16 SECTION 4, AND AS AMENDED BY P.L.280-2001, SECTION 18,
 17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 18 2002]: Sec. 1. (a) For each action that results in a felony conviction
 19 under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the
 20 clerk shall collect from the defendant a criminal costs fee of one
 21 hundred twenty dollars (\$120).

22 (b) In addition to the criminal costs fee collected under this section,
 23 the clerk shall collect from the defendant the following fees if they are
 24 required under IC 33-19-6:

25 (1) A document fee.

26 (2) A marijuana eradication program fee.

27 (3) An alcohol and drug services program user fee.

28 (4) A law enforcement continuing education program fee.

29 (5) A drug abuse, prosecution, interdiction, and correction fee.

30 (6) An alcohol and drug countermeasures fee.

31 (7) A child abuse prevention fee.

32 (8) A domestic violence prevention and treatment fee.

33 (9) A highway work zone fee.

34 (10) A deferred prosecution fee (IC 33-19-6-16.2).

35 ~~(11) A judicial salaries fee (IC 33-19-6-18).~~

36 ~~(12)~~ (11) A document storage fee (IC 33-19-6-18.1).

37 ~~(13)~~ (12) An automated record keeping fee (IC 33-19-6-19).

38 ~~(14)~~ (13) A late payment fee (IC 33-19-6-20).

39 ~~(15)~~ (14) A sexual assault victims assistance fee (IC 33-19-6-21).

40 (15) A court management fee (IC 33-19-6-22).

41 (c) Instead of the criminal costs fee prescribed by this section, the
 42 clerk shall collect a pretrial diversion program fee if an agreement

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between the prosecuting attorney and the accused person entered into under IC 33-14-1-7 requires payment of those fees by the accused person. The pretrial diversion program fee is:

- (1) an initial user's fee of fifty dollars (\$50); and
- (2) a monthly user's fee of ten dollars (\$10) for each month that the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-19-8:

- (1) The pretrial diversion fee.
- (2) The marijuana eradication program fee.
- (3) The alcohol and drug services program user fee.
- (4) The law enforcement continuing education program fee.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

- (1) First, the clerk shall apply the partial payment to general court costs.
- (2) Second, if there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the partial payment for deposit in the appropriate county user fee fund.
- (3) Third, if there is money remaining after distribution under subdivision (2), the clerk shall distribute the partial payment for deposit in the state user fee fund.
- (4) Fourth, if there is money remaining after distribution under subdivision (3), the clerk shall distribute the partial payment to any other applicable user fee fund.
- (5) Fifth, if there is money remaining after distribution under subdivision (4), the clerk shall apply the partial payment to any outstanding fines owed by the defendant.

SECTION 4. IC 33-19-5-2, AS AMENDED BY P.L.1-2001, SECTION 35, AS AMENDED BY P.L.183-2001, SECTION 5, AND AS AMENDED BY P.L.280-2001, SECTION 19, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

- (1) for a violation constituting an infraction; or
- (2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);

the clerk shall collect from the defendant an infraction or ordinance

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violation costs fee of seventy dollars (\$70).

(b) In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-19-6:

(1) A document fee (*IC 33-19-6-1, IC 33-19-6-2, IC 33-19-6-3*).

(2) An alcohol and drug services program user fee (*IC 33-19-6-7(b)*).

(3) A law enforcement continuing education program fee (*IC 33-19-6-7(c)*).

(4) An alcohol and drug countermeasures fee (*IC 33-19-6-10*).

(5) A highway work zone fee (*IC 33-19-6-14*).

(6) A deferred prosecution fee (*IC 33-19-6-16.2*).

(7) A jury fee (*IC 33-19-6-17*).

~~(7) A judicial salaries fee (*IC 33-19-6-18*).~~

(8) A document storage fee (*IC 33-19-6-18.1*).

(9) An automated record keeping fee (*IC 33-19-6-19*).

(10) A late payment fee (*IC 33-19-6-20*).

(11) A court management fee (IC 33-19-6-22).

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the user fee fund established under IC 33-19-8:

(1) The alcohol and drug services program user fee.

(2) The law enforcement continuing education program fee.

(3) The deferral program fee.

(d) The defendant is not liable for any ordinance violation costs fee in an action in which:

(1) the defendant was charged with an ordinance violation subject to IC 33-6-3;

(2) the defendant denied the violation under IC 33-6-3-2;

(3) proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal); and

(4) the defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

(1) an initial user's fee not to exceed fifty-two dollars (\$52); and



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(2) a monthly user's fee not to exceed ten dollars (\$10) for each month the person remains in the deferral program.

SECTION 5. IC 33-19-5-3, AS AMENDED BY P.L.183-2001, SECTION 6, AND AS AMENDED BY P.L.280-2001, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) For each action filed under:

(1) IC 31-34 or IC 31-37 (delinquent children and children in need of services); or

(2) IC 31-14 (paternity);

the clerk shall collect a juvenile costs fee of one hundred twenty dollars (\$120).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:

(1) A document fee.

(2) A marijuana eradication program fee.

(3) An alcohol and drug services program user fee.

(4) A law enforcement continuing education program fee.

(5) An alcohol and drug countermeasures fee.

~~(6) A judicial salaries fee (IC 33-19-6-18).~~

~~(7) (6) A document storage fee (IC 33-19-6-18.1).~~

~~(8) (7) An automated record keeping fee (IC 33-19-6-19).~~

~~(9) (8) A late payment fee (IC 33-19-6-20).~~

(9) A court management fee (IC 33-19-6-22).

(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-19-8:

(1) The marijuana eradication program fee.

(2) The alcohol and drug services program user fee.

(3) The law enforcement continuing education program fee.

SECTION 6. IC 33-19-5-4, AS AMENDED BY P.L.183-2001, SECTION 7, AND AS AMENDED BY P.L.280-2001, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) For each civil action except:

(1) proceedings to enforce a statute defining an infraction under IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);

(2) proceedings to enforce an ordinance under IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);

(3) proceedings in juvenile court under IC 31-34 or IC 31-37;

(4) proceedings in paternity under IC 31-14;

(5) proceedings in small claims court under IC 33-11.6; and

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(6) proceedings in actions under section 6 of this chapter; the clerk shall collect from the party filing the action a civil costs fee of one hundred dollars (\$100).

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:

(1) A document fee.

(2) A support and maintenance fee.

~~(3) A judicial salaries fee (IC 33-19-6-18).~~

~~(4)~~ **(3)** A document storage fee (IC 33-19-6-18.1).

~~(5)~~ **(4)** An automated record keeping fee (IC 33-19-6-19).

(5) A court management fee (IC 33-19-6-22).

SECTION 7. IC 33-19-5-5, AS AMENDED BY P.L.183-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) For each small claims action the clerk shall collect from the party filing the action a small claims costs fee of thirty-five dollars (\$35).

(b) In addition to a small claims costs fee collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:

(1) A document fee.

~~(2) A judicial salaries fee (IC 33-19-6-18).~~

~~(3)~~ **(2)** A document storage fee ~~(IC 33-19-6-18.1).~~
(IC 33-19-6-18.1).

~~(4)~~ **(3)** An automated record keeping fee (IC 33-19-6-19).

(4) A court management fee (IC 33-19-6-22).

SECTION 8. IC 33-19-5-6, AS AMENDED BY P.L.183-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. (a) Except as provided under subsection (c), for each action filed under:

(1) IC 6-4.1-5 (determination of inheritance tax);

(2) IC 29 (probate); and

(3) IC 30 (trusts and fiduciaries);

the clerk shall collect from the party filing the action a probate costs fee of one hundred twenty dollars (\$120).

(b) In addition to the probate costs fee collected under this section, the clerk shall collect from the party filing the action the following fees if they are required under IC 33-19-6:

(1) A document fee.

~~(2) A judicial salaries fee (IC 33-19-6-18).~~

~~(3)~~ **(2)** A document storage fee (IC 33-19-6-18.1).

~~(4)~~ **(3)** An automated record keeping fee (IC 33-19-6-19).

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(4) A court management fee (IC 33-19-6-22).

(c) A clerk may not collect a court costs fee for the filing of the following exempted actions:

- (1) Petition to open a safety deposit box.
- (2) Filing an inheritance tax return, unless proceedings other than the court's approval of the return become necessary.
- (3) Offering a will for probate under IC 29-1-7, unless proceedings other than admitting the will to probate become necessary.

SECTION 9. IC 33-19-6-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 22. The clerk shall collect a court management fee of four dollars (\$4) in all proceedings in which a person is convicted of a crime and in all civil proceedings, including ordinance and infraction violation proceedings.**

SECTION 10. IC 33-19-7-1, AS AMENDED BY P.L.183-2001, SECTION 13, AND AS AMENDED BY P.L.280-2001, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) The clerk of a circuit court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-3(a) (juvenile costs fees).
- (4) IC 33-19-5-4(a) (civil costs fees).
- (5) IC 33-19-5-5(a) (small claims costs fees).
- (6) IC 33-19-5-6(a) (probate costs fees).
- (7) IC 33-19-6-16.2 (deferred prosecution fees).

(b) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established under IC 33-19-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).
- (3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-19-5-1(b)(8).

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(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected under IC 33-19-6-16.3.

(7) One hundred percent (100%) of the automated record keeping fee (IC 33-19-6-19).

(c) The clerk of a circuit court shall monthly distribute to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall monthly distribute to the county auditor fifty percent (50%) of the child abuse prevention fees collected under ~~IC 33-19-5-1(b)(8)~~ **IC 33-19-5-1(b)(7)**. The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

~~(e) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial salaries fee.~~

~~(f)~~ **(e)** The clerk of a circuit court shall monthly distribute to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-19-6-20. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-19-6-1.5 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance under subdivision (1), the county auditor shall deposit all the fees in the county general fund.

~~(g)~~ **(f)** The clerk of the circuit court shall semiannually distribute to the auditor of state for deposit in the sexual assault victims assistance fund established under IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-19-6-21.

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(g) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the court management fees collected under IC 33-19-6-22.

SECTION 11. IC 33-19-7-4, AS AMENDED BY P.L.183-2001, SECTION 14, AND AS AMENDED BY P.L.280-2001, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) The clerk of a city or town court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-4(a) (civil costs fees).
- (4) IC 33-19-5-5 (small claims costs fees).
- (5) IC 33-19-6-16.2 (deferred prosecution fees).

(b) Once each month the city or town fiscal officer shall distribute to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-4(a) (civil costs fees).
- (4) IC 33-19-5-5 (small claims costs fees).
- (5) IC 33-19-6-16.2 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-4(a) (civil costs fees).
- (4) IC 33-19-5-5 (small claims costs fees).
- (5) IC 33-19-6-16.2 (deferred prosecution fees).

(d) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established under IC 33-19-9 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-19-5-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).
- (3) One hundred percent (100%) of the highway work zone fees

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collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).

(4) One hundred percent (100%) of the safe schools fee collected under IC 33-19-6-16.3.

(5) One hundred percent (100%) of the automated record keeping fee (IC 33-19-6-19).

(e) The clerk of a city or town court shall monthly distribute to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-19-5-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

~~(f) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial salaries fee.~~

~~(g)~~ (f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under IC 33-19-6-20. The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the court management fees collected under IC 33-19-6-22.

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